

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

TAYLA GREENE

CASE NO. 3:20-CV-00578

VERSUS

JUDGE TERRY A. DOUGHTY

DAKOTA DEMOSS, ET AL.

MAG. JUDGE KAYLA D. MCCLUSKY

ORDER

Before the undersigned Magistrate Judge, on reference from the District Court, is a First Amended Motion for Substitution [doc. # 68] filed by Plaintiff Tayla Greene. By this motion, Plaintiff seeks to substitute Darby Hollingsworth, in her capacity as tutor/tutrix of the minor, G.H., -- the lone surviving child and heir of Defendant, Chris Hollingsworth, who died intestate.

The motion hereby is set for hearing on **May 12, 2021, at 10:00 a.m.**, by Zoom video conference. This order shall serve as the “notice of hearing.”¹ Pursuant to Rule 25, Plaintiff must serve a copy of the instant motion, and this order/notice of hearing on Darby Hollingsworth, in accordance with Rule 4(e) – not Rule 5 of the Federal Rules of Civil Procedure.² Once she perfects service on Hollingsworth, Plaintiff shall file a return of service in

¹ Rule 25 of the Federal Rules of Civil Procedure provides, in pertinent part, that “[a] motion to substitute, *together with a notice of hearing*, must be served on the parties as provided in Rule 5 and *on nonparties as provided in Rule 4*. A statement noting death must be served in the same manner.” FED. R. CIV. P. 25(a)(3).

² Plaintiff need not serve Hollingsworth with a summons, at this time. *See Hippen v. Griffiths*, Civil Action No. 90-2024, 1991 WL 152833, at *2–3 (D. Kan. July 9, 1991) (the procedural requirements of the rule are not that a *summons* be served upon nonparties, but that the motion for substitution be served in accordance with the requirements of Rule 4). If substitution is permitted, then Plaintiff shall file an amended complaint with the substituted party, whereupon the Clerk of Court will issue summons and Plaintiff may serve the complaint(s) and summons on the substituted party, also in accordance with Rule 4(e).


the record.

If Darby Hollingsworth wishes to waive the hearing and concede that she is the proper party to be substituted in this matter for Defendant, Chris Hollingsworth, then she shall so stipulate, in writing, and file same with the Clerk of Court by **May 5, 2021**. If Hollingsworth wishes to proceed with the hearing, then, by the same deadline, she shall provide the Clerk of Court with her email address, and that of her attorney (if any), for purposes of receiving an invitation(s) to the Zoom hearing.

Finally, according to the motion, Plaintiff has petitioned a court in Ouachita Parish to appoint an administrator for the succession of Chris Hollingsworth. (Pl. Motion, pg. 4 [doc. # 68]). Of course, if an administrator is appointed, then the administrator will become the proper party to be substituted in this matter. LA. CODE CIV. PRO. ART. 801(2). If the appointment occurs prior to the scheduled hearing on this motion, then Plaintiff shall file a superseding, second amended motion to substitute the administrator as the succession representative for the decedent.

IT IS SO ORDERED.

In Chambers, at Monroe, Louisiana, on this 18th day of March, 2021.



KAYLA DYE MCCLUSKY
UNITED STATES MAGISTRATE JUDGE